

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on April 23, 2003, and the references cited therewith.

Claim 1 is amended and claims 20-26 are added; as a result, claims 1-12 and 14-26 are now pending in this application.

§112 Rejection of the Claims

Claims 1-12 and 14-19 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner has challenged the limitation, “ingredient on the basis of organic solvents in the presence of an emulsifier.” Applicant has amended claim 1 to describe and ingredients having concentrations based upon the concentration of the aliphatic hydrocarbon solvent [on the basis of organic solvents in the presence of an emulsifier];

The Examiner has challenged use of the term “acrylate derivate” and “silicone derivate.” However, this term is described in the specification on page 3, lines 18-19: “Acrylic acid, methacrylic acid or their esters also can be used (herein called ‘acrylate derivatives.’)” The term, “silicone derivate” is described on page 3, lines 28-29: “Advantageously, a compound such as Dimethicone or Cyclomethicone can be used as volatile silicone derivate.”

§102 Rejection of the Claims

Claims 1-12 and 14-19 were rejected under 35 USC § 102(e) as being anticipated by Karlen et al. (U.S. Patent No. 6,190,647). In order to anticipate a claim, a reference must have each and every element in the claim. In the present case, the ‘647 patent does not have the element of ingredients having concentrations that are a pre-selected fraction of concentration of the aliphatic hydrocarbon solvent. Thus, the ‘647 reference does not anticipate the claims 1-12 and 14-19.

§103 Rejection of the Claims

Claims 1-12 and 14-19 were rejected under 35 USC § 103(a) as being unpatentable over Samain et al. (U.S. Patent No. 6,524,596 in view of Karlen (U.S. Patent No. 6,190,647). The combination of Samain et al. and Karlen does not describe the element of ingredients having concentrations that are a pre-selected fraction of concentration of the aliphatic hydrocarbon solvent. Thus, the reference does not render the claims 1-12 and 14-19 obvious.

Double Patenting Rejection

Claims 1-12 and 14-19 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-21 of U.S. Patent No. 6,523,565. Applicant is submitting a terminal disclaimer.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6976) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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By their Representatives,

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Date 22 July 03

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22nd day of July, 2003.

Dawn M. Poole

Name

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Signature